

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Nguyen *et al.*

Appln. No.: 09/227,881

Filed: January 11, 1999

For: *Nucleic Acids, Kits and Methods for the
Diagnosis, Prognosis and Treatment of
Glaucoma and Related Disorders*



Group Art Unit: 1635

Examiner: SHIBUYA, M.

Docket No.: 16491.066

#23/ K.T.
11/2/01

ELECTION

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Response to Restriction Requirement

Commissioner for Patents
Washington, D.C. 20231

Sir:

In the Office Action mailed August 29, 2001, the Examiner required restriction to one of Groups I - IV under 35 U.S.C. § 121. Applicants respectfully traverse the restriction requirement, and provisionally elect the claims of Group III (claims 79-81, 91, 94, 96, 97, 100, 102, 103, 106, 108, 109, 112, 114, 115, 118, 120, 121, 124 and 126), which encompasses SEQ ID NO: 3, for further prosecution.

Applicants submit that the complete examination of the application would be most expeditiously handled by treating all of the pending claims as a single entity. As Section 803 of the MPEP states, "[i]f the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions."

SEQ ID NO's 1, 2, 3 and 34 are all contained in the promoter region of the TIGR gene. Further, the regions of the TIGR gene represented by SEQ ID NOs: 1, 2, 3 and 34 are all contained in SEQ ID NO: 3, and the sequences of each are nearly identical. As such, a search of SEQ ID NO: 3 would encompass all the regions contained by all the other sequences. Therefore, it is respectfully submitted that the Examiner has not shown that a search and examination of the

entire application would cause a serious burden. No serious burden is created when a simultaneously conducting a computerized search for the nucleic acid molecules of Groups I-IV.

Based on the foregoing, Applicants submit that the restriction requirement is improper and therefore should be withdrawn. To facilitate prosecution, however, Applicants have provisionally elected, with traverse, Group III (claims 79-81, 91, 94, 96, 97, 100, 102, 103, 106, 108, 109, 112, 114, 115, 118, 120, 121, 124 and 126).

Should the Examiner have any questions regarding this application, the Examiner is encouraged to contact Applicant's undersigned representative at 202-942-5085.

The U.S. Patent and Trademark Office is hereby authorized to charge any fee deficiency, or credit any overpayment, to our Deposit Account No. 50-1824.

Respectfully submitted,



Andrew S. Brenc (Reg. No. 45,534)
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Date: _____

10/29/01

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